

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

THE PENNSYLVANIA STATE	:	
UNIVERSITY,	:	
	:	Civil Action No. 4:21-cv-01091 MWB
Plaintiff,	:	
	:	
v.	:	<b>(Judge Matthew W. Brann)</b>
	:	
VINTAGE BRAND, LLC,	:	
	:	
Defendant.	:	

**[AMENDED] ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_ 2021, upon consideration of **Defendant Vintage Brand, LLC's Motion and Supporting Memorandum To Dismiss Plaintiff The Pennsylvania State University's Complaint, Or In The Alternative, To Strike And For A More Definite Statement** and any response thereto, it is hereby **ORDERED** that Defendant's Motion is **GRANTED** as follows:

1. Pursuant to Fed. R. Civ. P. 12(b)(6), Counts I, II, III, and VI fail to state a claim upon which relief can be granted and Counts I, II, III, and VI are **DISMISSED**. The Court dismisses the Complaint without prejudice and grants Plaintiff leave to file an Amended Complaint that either omits the deficiently pleaded

Counts or includes additional allegations sufficient to satisfy the pleading requirements of the Federal Rules of Civil Procedure.

2. In the alternative, pursuant to Fed. R. Civ. P. 12(f), the allegations related to Plaintiff's "Nittany Lion Logo," U.S. Reg. Nos. 1,370,866 and 5,548,988, and the corresponding "Infringing Marks" allegations, including those in Counts I, II, III, and VI, to the extent they relate to or are derived from such facts are **STRICKEN**. Specifically, paragraph 22 of Plaintiff's Complaint, (Complaint, Doc. 1 ¶ 22), those images of U.S. Reg. Nos. 1,370,866 and 5,548,988 in paragraph 38, (*Id.* ¶ 38), and pages 2 through 6 of Exhibit A to the Complaint, (Doc. 1-2, at 2-6) are **STRICKEN**. Plaintiff shall file an Amended Complaint omitting the stricken allegations in paragraph 22, those images of U.S. Reg. Nos. 1,370,866 and 5,548,988 in paragraph 38, and pages 2 through 6 of Exhibit A to the Complaint, or Plaintiff shall amend its Complaint to include additional allegations sufficient to satisfy the pleading requirements of the Federal Rules of Civil Procedure. Such Amended Complaint shall be filed within fourteen (14) days of the date of this Order.

3. Also in the alternative, pursuant to Fed. R. Civ. P. 12(e), Defendant's Motion for a More Definite Statement is **GRANTED**. Plaintiff shall file an Amended Complaint that includes additional precise allegations sufficient to satisfy the pleading requirements of the Federal Rules of Civil Procedure. Specifically, Plaintiff shall file an Amended Complaint with specific allegations identifying the

precise alleged trademarks that are the subject of each of Plaintiff's respective causes of action and omitting all allegations and references to alleged trademarks that are not the subject of each of Plaintiff's respective causes of action. Such Amended Complaint shall be filed within fourteen (14) days of the date of this Order.

**BY THE COURT:**

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Matthew W. Brann  
Chief United States District Judge